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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,516	08/19/2003	J. David Payne	57442/03-533	4504
22206 7590 10/30/2007 FELLERS SNIDER BLANKENSHIP BAILEY & TIPPENS THE KENNEDY BUILDING 321 SOUTH BOSTON SUITE 800 TULSA, OK 74103-3318			EXAMINER TRAN, NGHI V	
			ART UNIT 2151	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,516

Applicant(s)

PAYNE, J. DAVID

Examiner

Nghi V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed on September 24, 2007. Claims 1 and 9 have been amended. No claims have been canceled. New claims 12-16 have been added. Therefore, claims 1-16 are presented for further examination.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 24, 2007 has been entered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 7 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Sendowski et al., U.S. Patent Application Publication No. 2003/0198934 (hereinafter Sendowski).

5. With respect to claim 7, Sendowski teaches a method for collecting survey data from a user [see abstract] comprising:

(a) designing a questionnaire [i.e. survey] having branching logic [i.e. branch script object, **124**] on a first computer platform [i.e. web server, **121**] [paragraphs 0023-0028 and 0041-0048];

(b) automatically transferring said designed questionnaire to at least one loosely networked computer [i.e. automatically generate an HTML question page or question form, paragraphs 0024-0031];

(c) executing said transferred questionnaire on said loosely networked computer, thereby collecting responses from the user [see abstract];

(d) automatically transferring via the loose network any responses so collected to a central computer [i.e. medical survey provider **120**] [paragraph 0020 and table 3]; and,

(e) making available on the Web any responses transferred to said central computer in step (d) [fig.1].

6. Regarding claim 13, Sendowski teaches tokenizing said designed questionnaire [= scripts are used for the collection of structure information, surveys, interviews, evaluations in the framework, see paragraph 0007], thereby producing a plurality of

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tokens representing said questionnaire [= script tokens can be used in questions, see abstract].

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 5, 9, 12, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lew et al., U.S. Patent Application Publication No. 2004/0210472 (hereinafter Lew), in view of Porter, United States Patent Number 6,163,811 (hereinafter Porter).

9. With respect to claims 1, 9, 12 and 15, Lew teaches a method for managing data [see abstract] including the steps of:

(a) creating a questionnaire [i.e. survey] comprising a series of questions [paragraphs 0005-0009];

(b) tokenizing said questionnaire [i.e. encrypted survey information, paragraph 0013]; thereby producing a plurality of tokens representing said questionnaire [paragraphs 0005-0009];

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(c) transmitting said plurality of tokens to a remote computing device [i.e. the survey transmitter may transmit to the remote responding device in either a wired or a wireless manner, paragraph 0053];

(d) executing at least a portion of said plurality of tokens representing said questionnaire at said remote computing device to collect a response [i.e. feedback] from a user [i.e. feed back from a user, paragraph 0036];

(e) transmitting at least a portion of said response from the user to a server [i.e. a central facility] via a network [paragraph 0050]; and

(f) storing said response at said server [i.e. all feedback is transmitted to the central facility, **S6100** of fig.2 and paragraph 0048].

However, Lew does not explicitly show tokenizing said questionnaire for reducing bandwidth requirements.

In a managing data method, Porter suggests tokenizing said questionnaire for reducing bandwidth requirements [i.e. tokenized form, generated from an original form, thereby reducing transmission bandwidth bandwidth requirement on communication medium **180**, see figs.1a-c and its decryptions].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lew in view of Porter by tokenizing said questionnaire for reducing bandwidth requirements because this feature is using compression techniques to distribute source files over a network while minimizing the network bandwidth [Porter, see abstract]. It is for this reason that one of ordinary skill in

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the art at the time of the invention would have been motivated in order to reduce transmission bandwidth requirement [Porter, col.1, lns.65-67].

10. With respect to claims 5 and 16, Lew further teaches wherein the transmission of said tokens in step (c) occurs via the network of step (e) [fig.3].

11. Claims 2-4, 6, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lew in view of Porter, as applied to claim 1 above, and further in view of Sendowski et al., U.S. Patent Application Publication No. 2003/0198934 (hereinafter Sendowski).

12. With respect to claim 2, Lew does not explicitly show the step of: (g) translating said response to a format recognizable by a particular computer program; and (h) accessing the translated response from a computer executing said particular computer program.

In a method for managing data, Sendowski suggests the step of: (g) translating said response to a format recognizable [i.e. XML data structural] by a particular computer program [i.e. branching script engine, paragraphs 0007-0008]; and (h) accessing the translated response from a computer executing said particular computer program [paragraphs 0034-0053 and fig.2].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lew in view of Porter, and further in view of

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Sendowski by accessing a translated response to a format recognizable by a particular computer program because this feature provides a framework of reusable software object implementing the creation and execution of any question-answer branching scripts [Sendowski, see abstract]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to support thousands of concurrent users when it is required [Sendowski, paragraph 0005].

13. With respect to claim 3, Lew does not explicitly show wherein step (a) includes the substeps of: (a) creating a questionnaire by:

(i) entering a series of questions into a questionnaire design computer program;

(ii) identifying within said questionnaire design computer program the type of response allowed for each question of said series of questions; and

(iii) identifying within said questionnaire design computer program a branching path in said questionnaire for each possible response to each question of said series of questions.

In a method for managing data, Sendowski suggests wherein step (a) includes the substeps of: (a) creating a questionnaire by:

(i) entering a series of questions into a questionnaire design computer program [paragraphs 0034-0054];

(ii) identifying within said questionnaire design computer program the type of response allowed for each question of said series of questions [i.e. answer types, paragraph 0019 and table 2]; and

(iii) identifying within said questionnaire design computer program a branching path in said questionnaire for each possible response to each question of said series of questions [paragraphs 0018 and table 1].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lew in view of Porter, and further in view of Sendowski by identifying within said questionnaire design computer program a branching path in said questionnaire for each possible response to each question of said series of questions because this feature provides a framework of reusable software object implementing the creation and execution of any question-answer branching scripts [Sendowski, see abstract]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to support thousands of concurrent users when it is required [Sendowski, paragraph 0005].

14. With respect to claim 4, Lew does not explicitly show (i) assigning at least one token to each question of said series of questions; (ii) assigning at least one token to each response called for in said series of questions to identify the type of response required; and (iii) assigning at least one token to each branch in said questionnaire to identify the required program control associated with said branch.

In a method for managing data, Sendowski suggests (i) assigning at least one token to each question of said series of questions [i.e. a question uses tokens, paragraph 0019]; (ii) assigning at least one token to each response called for in said series of questions to identify the type of response required [i.e. allows the answer to be

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collected into a name token, paragraph 0020]; and (iii) assigning at least one token to each branch in said questionnaire to identify the required program control associated with said branch [paragraphs 0041-0049].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lew in view of Porter, and further in view of Sendowski by assigning at least one token to each question of said series of questions, to each response called for in said series of questions, and to each branch in said questionnaire because this feature provides a framework of reusable software object implementing the creation and execution of any question-answer branching scripts [Sendowski, see abstract]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to support thousands of concurrent users when it is required [Sendowski, paragraph 0005].

15. With respect to claims 6 and 9, Lew teaches a method for managing data transfers between computers [see abstract and fig.1] including the steps of:

(a) creating a questionnaire [i.e. survey] at a first site [i.e. modulator **10**] in a first computer [i.e. media conveyor **20**] located at a second site [paragraphs 0026-0029], said first site and said second site being connected by a network [fig.1];

(b) transmitting said question to a remote computer [i.e. remote responding device] via said network, said remote computer running an OIS [paragraph 0053];

However, Lew does not explicitly show modifying said questionnaire with incremental changes at a third site in said first computer located at said second site;

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and modifying said questionnaire in said remote computer with said incremental changes.

In a method for managing data, Sendowski modifying said questionnaire with incremental changes at a third site in said first computer located at said second site [i.e. TSLastModified of table 2 and paragraph 0058]; and modifying said questionnaire in said remote computer with said incremental changes [i.e. TSLastModified of table 2 and paragraph 0058].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Lew in view of Porter, and further in view of Sendowski by modifying said questionnaire with incremental changes at a third site in said first computer located at said second site; and modifying said questionnaire in said remote computer with said incremental changes because this feature provides a framework of reusable software object implementing the creation and execution of any question-answer branching scripts [Sendowski, see abstract]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to support thousands of concurrent users when it is required [Sendowski, paragraph 0005].

16. With respect to claim 10, Lew further teaches wherein said first site and said third site are the same [fig.1].

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17. With respect to claim 11, Lew further teaches wherein said third site is at said remote computer [fig.1].

18. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sendowski et al., U.S. Patent Application Publication No. 2003/0198934 (hereinafter Sendowski), in view of Joao, U.S. Patent Application Publication No. 2001/0056374 (hereinafter Joao).

19. With respect to claim 8, Sendowski does not explicitly show assessing a charge for each transferred response received by said central computer.

In a method for collecting survey data, Joao discloses assessing a charge [i.e. compensation, rewards, rebates and/or incentives can be provided for viewing, reviewing, participating in and/or interacting with, the entire survey, poll and/or questionnaire, paragraph 0230] for each transferred response received by said central computer [paragraphs 0228-0037].

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Sendowski in view of Joao by assessing a charge for each transferred response received by said central computer because this feature can receive compensation, a reward, a rebate, and/or an incentive [Joao, paragraph 0009]. It is for this reason that one of ordinary skill in the art at the time of the invention would have been motivated in order to facilitate commerce between any parties and/or any number of parties [Joao, paragraph 0009].

Response to Arguments

20. Applicant's arguments filed September 24, 2007 have been fully considered but they are not persuasive because of the following: Sendowski teaches a method for collecting survey data from a user [see abstract] comprising: (a) designing a questionnaire [i.e. survey] having branching logic [i.e. branch script object, **124**] on a first computer platform [i.e. web server, **121**] [paragraphs 0023-0028 and 0041-0048]; (b) automatically transferring said designed questionnaire to at least one loosely networked computer [i.e. automatically generate an HTML question page or question form, paragraphs 0024-0031]; (c) executing said transferred questionnaire on said loosely networked computer, thereby collecting responses from the user [see abstract]; (d) automatically transferring via the loose network any responses so collected to a central computer [i.e. medical survey provider **120**] [paragraph 0020 and table 3]; and, (e) making available on the Web any responses transferred to said central computer in step (d) [fig.1].

21. In response to applicant's argument with respect to claim 7, Sendowski does not disclose a loosely networked computer, the examiner respectfully disagrees because Sendowski suggests a loosely networked computer [i.e. Internet **101**]. Basically, the term "loosely networked" is used to describe a networked computer system in the applicant's disclosure [paragraph 0048]. "If the information may be transmitted in real time or may be stored, or buffered, once a connection is restored" is one of the

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embodiments of the applicant's disclosure, not a definition of the term "loosely networked".

22. The Affidavits filed on September 24, 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome Sendowski et al., United States Patent Application Publication Number 2003/0198934 (hereinafter Sendowski).

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Sendowski. While conception is the mental part of the inventive act, it must be capable of proof, such as demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897).

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is replying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amount essentially to mere pleading, unsupported by proof or showing of facts" and thus, does not satisfy the requirements of 37 CFR 1.131(b). In *re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibit pointing out exactly what facts are established and relied on the applicant. 505 F. 2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 33 F.2d 920, 142 USPQ 164 (CCPA 1964)

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(Affidavit "asserts the facts exist but does not tell what they are or when they occurred.").

When alleging that the conception or a reduction to practice occurred prior to the effective date of the reference, the dates in the oath or declaration may be the actual dates or, if the applicant or patent owner does not desire to disclose his or her actual dates, he or she may merely allege that the acts referred to occurred prior to a specified date. However, the actual dates of acts relied on to establish diligence must be provided. See MPEP 715.07 (a) regarding the diligence requirement.

23. In response to applicant's argument that Lew does not recite, "tokenizing said questionnaire," the examiner respectfully disagree. Lew discloses encrypted survey information [paragraph 0005-0009 and 0013]. Encrypting survey information is nothing more than tokenizing said questionnaire.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi V. Tran whose telephone number is (571) 272-4067. The examiner can normally be reached on Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nghi Tran
Patent Examiner
Art Unit 2151

October 17, 2007

 JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
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